Tuolumne County Enforcement Work Plan
2006/2007

County Resources

- Deputy MC- 50 % of time in PUE
- Sr. Inspector PR- 7 % of time in PUE
- Sr. Inspector TP- 11% of time PUE
- Office Technician RS – 13% of time PUE: data entry
- To accomplish the elements of the enforcement response policy requirements the program workload requires another staff person 25 % of time in PUE
- No additional staff person currently trained to perform PUE

A. Restricted Materials Permitting

Permit Evaluation

- Approximately 35 restricted materials permits issued annually.
- Majority of permits are issued for phenoxy herbicides, paraquat, strychnine, and SLN for apiary pests.
- Permits are only approved and issued by three licensed and trained staff:
    - Deputy MC - issues 85 % of permits
    - Sr. Inspector PR – issues 26% of permits
    - Sr. Inspector TP – issues <1% of permits
- For new permits initial contact by phone or in person to prescreen for hazards necessitating denials.
- If a permit is denied, then the basis of denial is documented on a county formed that was developed by CACASA for the Enforcement Response Policy.
- Permit approved through verification of having passed private or qualified applicator certification exam.
- County administers private applicator certification exam on an individual basis.
- Appointment is required for permit issuance and certification exam.
- Permit issuance takes approximately one hour.
- Testing takes approximately one hour.
- During issuance we conduct review of adjacent and surrounding properties based on the following to determine potential adverse environmental impact or health effects:
    - Maps submitted by the applicant
    - Discussion with the applicant
    - Knowledge of the local area
- Permits are entered into the RMPP, never issued on PR ENF-125, and printed out for signature.
- Permits are issued to operator of property or authorized representative (either an employee, farm management firm or PCA), non-ag permits can be issued to PCB
- Letter of authorization required for issuance or signature of other than operator of property.
- Permits are valid for one year, expiring at the end of the calendar year (December 31) in which they are issued.

- All permits are entered into two log books; main file log book and Excel spreadsheet for tracking PUR.
- All agricultural and non-agricultural permits are site specific and maps are required.
- Sites are identified by a four digit number associated with the applicant phone number, typically the letter identifying with a commodity and the number identified with a location or commodity within map. Forestry site identification numbers are provided by the applicants and are usually associated with a Timber Harvest Plan or other specific individual identification associated with a project for that calendar year.
- Homes, wells, adjacent environment and sensitive areas are identified on maps.
- Handouts reviewed with permittee at time of issuance:
    - In house pesticide use requirements; updated on an annual basis
    - DPR pesticide use requirements PR-ENF-116
    - Restricted material permit conditions; updated on an annual basis
    - Notice of intent form PR-ENF-126X and instructions
    - Additional monthly use report forms for non-restricted applications when applicable: PR-ENF-184, PR-ENF-025 or PR-ENF-017a or c and instructions are provided.
    - California restricted materials list if requested.
    - In house handler training forms.
    - Application specific information requirements.
    - Copy of pesticide label if requested.
    - Copy of pesticide SLN if required.
    - PSIS A or N.
    - UC IPM Pest Notes for specific pests to be controlled.
    - List of beekeepers adjacent to the property to be treated if applicable.

- For permit amendments, a notation is made on the permit and entered into the RMPP for small changes, while larger, more significant changes require the permittee to sign and date the amendment.
- Permit/certification renewals usually occur after county sponsored continuing education opportunity/training offered.
- The county offers a minimum of six 2.5 hours of continuing education classes each calendar year.
- For renewals, prior year permit files are reviewed for PURs, non-compliances and inspections to determine any potential problem areas.
- Approximately 35 NOIs are received a year.
- 24 hour NOIs are required.
- NOIs are accepted by telephone to the main telephone line, fax, or in person and are monitored between 8 am-5 pm, Mondays –Fridays.
- After hours the NOIs are picked up by answering machine. No NOIs are picked up by staff on weekends.
- The staff receiving the NOI transcribes the information to an in house log that is kept in a file in the office.
- Licensed staff reviews NOI to determine if a Pre-Site inspection is required and for consistency of RMP issued.

Strengths

- Staff experience and knowledge of local conditions helps to reduce substantial adverse environmental impacts.
- Currently there is an increasing level of ag-urban interface issues.
- Historically there have been few to no instances of permit denials due to potential adverse environmental impacts.
- Issuance of one year permits even for permanent crops allows for regular review of permits, reducing chances for potential adverse impacts.
- Specific permit conditions are updated annually to address the changing level of ag-urban interface issues and with new crop plantings in the county.

Weaknesses

- Current maps are hand drawn and not to scale.
- Some permits include pesticides that have not been used in many years but are kept on the permit for potential future use of for pesticides that are in storage.
- NOIs are transcribed onto log but actual inspection time depending on staff/ office workload and priority issues within the office.
- Many NOIs are not submitted 24 hours prior to application making it difficult to conduct review of NOI prior to application.
- Obtaining PURs in a timely manner has been a consistent issue.

Goal or Objective

- Assure that the evaluation process for restricted materials permit applications and NOIs is complete and thorough, taking into consideration all aspects of risk assessment through the use of updates and improvements to permit information necessary to make sound determinations on adverse effects.
- Training new farm managers, there is an influx of new agriculture property owners which takes extra time to introduce them into the RMPP system and CDPR requirements.

Deliverables

- Review county GIS parcel data, if available on county website prior to issuing new restricted material permits to assess potential adverse effects.
- Evaluate existing sites for changes in adjacent land uses and amend permits accordingly to prevent potential adverse effects.
- Review permits that have restricted materials that have not been used for past 3 years and work with permittee to eliminate such pesticides.

Measure Success

- End of FY 2006/2007 review all restricted material permit files for the following corrective actions:
    - Update existing site maps with specific color GIS parcel maps by using the Tuolumne County CCD website so identify impacts to adjacent land.
    - Site identification that meet site definition guidelines.
    - Elimination of pesticides not used for the last 5 years.
- End of FY 2006/2007 review of NOI log to determine if:
    - Increase in timely reviews of NOIs by staff occurred
- End of FY 2006/2007 review of occurrence of adverse incidents where we had a high degree of control based on corrections implemented to permit and NOI review process

Site Monitoring Plan Development

- Approximately 1250 annual sites
- Majority of NOIs are for the following restricted materials/crops:
    - Phenoxy herbicides for forest, received during April – July, weather dependant.
    - Phenoxy herbicides for forage crops, received during January-March.
    - Phenoxy herbicides for noxious weed control, received during January – May.
    - Paraquat for wine grapes, received during January through March.
    - Strychnine for forest received May to November.
    - Vikane for structural fumigations, less than 5 per year annual average.
    - NOIs are reviewed by licensed staff.
- Sites to evaluate are based on:
    - hazard of pesticide use by crop
    - previous denials
    - applications near roads and residences
    - environment condition with respect to schools and public property use
    - general weather trends
    - local conditions
    - employee handlers
    - compliance histories
- Pre-application site inspections are performed as resources allow.
- All nonagricultural permits are required to submit an NOI until one inspection has been performed which is usually accomplished when the renewal occurs for an upcoming application.

Strengths

- Staff with many years of experience in county with knowledge of local conditions.
- Few types of restricted materials used on a few crops.
- Staff is aware to ask about changes to adjacent environments of sites to be monitored.

Weaknesses

- Lack of licensed staff available for site monitoring, time of year for most site monitoring is when licensed staff is performing other state contractual duties or sites are remote, in the case of forestry use, staff must coordinate with landowner/operator/PCB to visit the site.

Goal or Objective

- Assure that site-monitoring for restricted material use is effective, preventative and comprehensive, taking into consideration the following risk factors:
    - Pesticide hazards associated with
        - phenoxy herbicides
        - paraquat
        - strychnine
    - Local conditions
        - new residential developments within the ag-urban interface
    - Compliance histories
        - employee handlers
        - permittee
        - pest control advisors

Deliverables

- Pre-application site inspections will be performed on a minimum of 5% of the notices of intent.
- Requests for recommendations will be increased to better evaluate risks associated with proposed applications.

Measure Success

- End of FY 2006/2007 review of PRAMR to determine if required 5 % pre-application site inspections were performed.
- End of FY 2006/2007 review:
    - Increase in number of PCA recommendations received and reviewed.
    - Decrease in potential or actual risks by using better quality maps.

B. Compliance Monitoring

Comprehensive Inspection Plan

- Inspections are performed by three licensed and trained staff:
    - Deputy MC - 10%
    - Sr. Insp. PR – 25%
    - Sr. Insp. TP – 65%
- Inspections are performed between 7 am-4 pm, Mondays-Fridays
- 35 % of inspections are scheduled
    - PCB/ grower headquarter safety
    - pre-application site
    - restricted materials
- Majority of scheduled agricultural application inspections occur between February and May when weed control takes place with phenoxy herbicides and for wine grapes with paraquat.
- Of the inspections that are not scheduled, 25 % are targeted and are concentrated on the agricultural crop season cycle; forestry, apples, wine grapes, stone fruit and rangeland/pastureland.
- Targeted inspections are prioritized by:
    - Applicator compliance history
    - Employee handlers
    - Location of application
- 75 % of inspections are random in urban areas
    - Landscape Maintenance Gardeners
    - Structural/AG pest control businesses
- FY 2005/2006 analysis of inspection activities showed a steady non-compliance rate
    - For pesticide use monitoring inspections 10 % of the non-compliances were property operators and 90 % were pest control businesses for training and PPE.
    - For headquarters inspections 10 % of the non-compliances were property operators and 90 % were pest control businesses for training and record keeping.

Strengths

- The size and centralized location of the agricultural pesticide application areas and the experience of the staff performing enforcement allows for an intimate familiarity with pesticide usage and cropping patterns in the county.
- A targeted inspection plan that addresses the following components:
    - Violation history
    - Potential for WHS violations
    - Employee handler applications
- Low level of Category I pesticides being handled by employees requiring closed systems.

- The frequency of licensed headquarters employee safety inspections is currently on an annual basis. The frequency of dealer inspections is on an annual basis. This frequency schedule allows for effective identification and enforcement action of non-compliances.
- Low level of pesticide related incidents, reducing the need for non-targeted compliance driven inspections.

Weaknesses

- Monitoring currently as resources allows. Availability of trained staff persons to conduct inspections when the majority of restricted material applications are occurring, time of year of these applications coincides with other state contract obligations, permit renewals and county roadside weed spraying which are also the responsibilities of the two staff persons who conduct the inspections.
- Small staff whose duties include other county program support means that no one is available for weekend or night time work when owner operator and reduced drift applications occur.
- Low number of follow up inspections due to lack of staff availability due to other state contract obligations.

Goals or Objectives

- Assure that compliance monitoring is effective and comprehensive, ensuring the safety of pesticide handlers, fieldworkers, the public, and the environment through the use of an inspection strategy that has a measurable effect on compliance improvement.

Deliverables

- Maintain frequency of inspections for headquarters and dealers
- Maintain targeted inspections for situations where WHS violations have occurred in the past or have the potential to occur
- Increase targeted inspections when necessary for repeat violations.

Measuring Success

- Midway between and at the end of FY 2006/2007 review of PRAMR to determine if there has been a decrease in the number of pesticide use and records inspections for targeted components.
- Midway between and at the end of FY 2006/2007 review of non-compliances as a result of targeted inspections.
- Midway between and the end of FY 2006/2007 review NOPA's to see if there is an effect of non-compliances.

Investigation Response and Reporting Improvement

- Pesticide-related investigations are conducted by three trained staff:
    - Deputy-responsible for 50 % of investigations
    - Sr. Insp. TP-responsible for 40 % of investigations
    - Sr. Insp. PR- responsible for 10 % of investigations
- Complaints are received by secretary or Deputy.
- Once received they are given to Deputy, the Deputy determined the responsibility of the investigation to be assigned based on workload and trained staff availability.
- All complaints or incidents that may be related to pesticides receive a response and results are documented on complaint forms or investigative reports.
- All investigation and complaint reports are reviewed and approved by the Commissioner once complete.
- In the last fiscal years there were 6 investigations/complaints
- Types of investigations and time it took to complete were:
    - One priority and still remains unresolved.
    - Five non-priority investigations initiated within three days and completed within two to six weeks.
- All of the investigation reports were complete and none were returned for lack of additional information or supporting documentation

Strengths

- Routing of the investigation/complaint goes directly to the Deputy and review and approval goes directly to the Commissioner. Without any intermediate personnel the reports are processed in a timely manner.
- Low number of investigations and complaints received by the county allows for ability to respond and complete investigations and reports in a timely manner.
- Staff that have keep current with investigative training.
- Our investigative response and reporting has resulted in the following:
    - Were effective in providing awareness for worker health and safety issues.
    - Were conclusive in explaining why or how the episode occurred.
    - Allowed us to take appropriate enforcement action when causal violations were discovered.
    - Allowed us to take preventative measures at the applicator/business/local program level.

Weaknesses

- No areas of investigation response or reporting were identified as needing improvement based on the last two fiscal year DPR Effectiveness Evaluations.

Goal or Objective

- Maintain implementation strategy of current investigative response with regard to timely initiation and completion of all priority and non-priority investigations.
- Maintain implementation strategy of current investigative response with regard to use of existing violation analysis and high quality in investigative thoroughness and report accuracy.

Deliverables

- Timely episode investigation initiation and completion.
- Investigation reports that are accurate and complete.
- Licensed staff is always updated on investigative procedures and all resources are made available.
- Follow up with NOPA if applicable.

Measure Success

- End of FY 2006/2007 review the number of returned/incomplete investigation reports.
- End of FY 2006/2007 review the number of NOPA's for a success in compliance.

Enforcement Response

Enforcement Response Evaluation

- All actions are discussed with the Commissioner prior to implementation (with the exception of violation notices checked off at the time of inspections on inspection forms)
- Compliance actions are prepared by two trained staff, Deputy and Sr. Insp. TP.
- Enforcement actions are prepared by Deputy.
- All actions are reviewed and signed by Commissioner.
- Review of the last five years shows that all enforcement actions commenced within two years of the occurrence of the violation, primarily commencing within 6- 12 months of violation.
- Decision trees in the DPR Enforcement Guidelines are followed to determine most appropriate action when violations are identified.
- Pesticide use report violations receive warning letters and notice of violations.
- Worker health and safety violations receive civil penalty actions, unless first time paperwork violation.
- Local worker health and safety violation issues are primarily:
    - Documentation of annual employee training
    - PPE

- For civil penalty actions, the fine guidelines are followed.

- If the action or fine deviates from the guidelines a justification is written into the action.
- No Decision Reports have been necessary in the last five years.
- All NOPAs provide respondents with detailed information on alleged violations, proposed fine level, and their right for an opportunity to be heard.
- A Pesticide Enforcement/Compliance Action Summary is prepared for every action.
- All inspections and non-compliances are tracked on a hand written log sheet.
- All actions are tracked on a hand written log sheet.
- Copies of inspection reports and actions are maintained in OID/permit or business files.

Strengths

- Limited chain of command within our office allows for timely review and approval of actions
- Maintaining copies of reports and actions within individual files allows for review of violator's history and selection of most appropriate action for the violation.
- Use of enforcement actions and fines as a tool to improve compliance.

Weaknesses

- Lack of compliance with certain licensees with specificity for type of violations that routinely occur.
- Lack of consistency in compliance and enforcement actions for minor violations, primarily paperwork violations.
- A great deal of time is spent on issuance of PUR compliance actions which don't seem to be cost effective for staff time spent relative to the type of non-compliance.
- Lack of staff availability for timely follow-up inspection activity.
- Lack of staff availability to follow-up with Notice of Violation correspondence.

Goal or Objective

- Provide a swift, consistent and fair response to non-compliances that results in future compliance by the respondent while working to maintain the respect of the regulated industry as well as maintaining the integrity of this office.

Deliverables

- Development of an enforcement plan that takes into consideration violation activities specific to the county. To be initiated FY 2006/2007.

Measure Success

- Mid and end of FY 2006/2007 review of individual files to verify if decrease in repeat non-compliances by violators resulted from new compliance and enforcement plan.

- End of FY 2006/2007 review of enforcement response to determine if effort was directed at violations that pose the greatest risk to people or the environment.